

## § 2.154

file an affidavit or declaration in accordance with § 2.20 setting forth those goods stated in the registration on which said mark is in use in commerce, specifying the nature of such commerce, and stating that the registrant claims the benefits of the Trademark Act of 1946.

[31 FR 5262, Apr. 1, 1966]

### § 2.154 Publication in Official Gazette.

A notice of the claim of benefits under the Act of 1946 and a reproduction of the mark will then be published in the *Official Gazette* as soon as practicable. The published mark will retain its original registration number.

### § 2.155 Notice of publication.

A notice of such publication of the mark and of the requirement for the affidavit or declaration specified in section 8(b) of the Act (§ 2.161) will be sent to the registrant.

### § 2.156 Not subject to opposition; subject to cancellation.

The published mark is not subject to opposition on such publication in the *Official Gazette*, but is subject to petitions to cancel as specified in § 2.111 and to cancellation for failure to file the affidavit or declaration specified in § 2.161.

## REREGISTRATION OF MARKS REGISTERED UNDER PRIOR ACTS

### § 2.158 Reregistration of marks registered under Acts of 1881, 1905, and 1920.

Trademarks registered under the Act of 1881, the Act of 1905 or the Act of 1920 may be reregistered under the Act of 1946, either on the Principal Register, if eligible, or on the Supplemental Register, but a new complete application for registration must be filed complying with the rules relating thereto, and such application will be subject to examination and other proceedings in the same manner as other applications filed under the Act of 1946. See § 2.26 for use of old drawing.

## 37 CFR Ch. I (7-1-98 Edition)

### CANCELLATION FOR FAILURE TO FILE AFFIDAVIT OR DECLARATION DURING SIXTH YEAR

AUTHORITY: Secs. 2.161 to 2.165 also issued under sec. 8, 60 Stat. 431; 15 U.S.C. 1058.

### § 2.161 Cancellation for failure to file affidavit or declaration during sixth year.

Any registration under the provisions of the Act and any registration published under the provisions of section 12(c) of the Act (§ 2.153) shall be cancelled as to any goods or services recited in the registration at the end of six years following the date of registration or the date of such publication, unless within one year next preceding the expiration of such six years the registrant shall file in the Patent and Trademark Office an affidavit or declaration in accordance with § 2.20 setting forth those goods or services recited in the registration on or in connection with which the mark is in use in commerce and attaching a specimen or facsimile showing current use of the mark, or an affidavit or declaration under § 2.20 showing that its nonuse as to any goods or services recited in the registration is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark as to those goods or services.

[54 FR 37597, Sept. 11, 1989]

### § 2.162 Requirements for affidavit or declaration during sixth year.

The affidavit or declaration required by § 2.161 must:

(a) Be executed by the registrant after expiration of the five-year period following the date of registration or of publication under section 12(c) of the Act;

(b) Be filed in the Patent and Trademark Office before the expiration of the sixth year following the date of registration or of publication under section 12(c) of the Act;

(c) Identify the certificate of registration by the registration number and date of registration;